IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.3787 of 2006

M/s.Kamdhenu Petitioner
Vs.
Mr.Prakash Mishrilal Gadia Respondent

Mr.A.G.Damle and Mr.V.P.Shintre for petitioner.
Mr.Nitin Kulkarni for respondent.

CORAM: B.H.MARLAPALLE,J.

August 14, 2006.

P.C.

1. Heard Mr.Damle, the learned counsel for the petitioner-firm and Mr.Kulkarni, the learned counsel for the respondnet-employee.

2. The petitioner-partnership firm has challenged the award passed by the 3rd Labour Court at Pune on 5/10/2005 in Reference (IDA) No.450 of 1997. The learned Judge of the Labour Court was pleased to allow the Reference by holding that the respondent-workman was orally terminated on 26/11/1996 from the service and the said termination was illegal. Consequently the workman has been ordered to be reinstated to his original post with continuity of service and to pay 50 per cent backwages from the date of termination till the date of reinstatement.

3. There is no dispute that the workman was employed with effect from 9/10/1995 on a monthly salary of Rs.2,100/-. Demand notice was issued for reinstatement alleging that by oral order he was not allowed to report to duty w.e.f. 26/11/1996 and the said demand was referred for adjudication as the parties could not settle the dispute. In the Reference before the Labour Court the employer took a plea that there was no oral termination and in fact the workman was removed from service by way of retrenchment w.e.f. 31/12/1996 and certain documents were also filed in support of this defence. The workman examined himself whereas the employer examined three witnesses viz. Shri Mohanlal Shroff at Exhibit 27, Shri Suresh Karkar at Exhibit 28 and Shri Kanhyalal Shroff at Exhibit 33. In addition the employer filed certain documentary evidence on record i.e. the muster roll at Exhibits 24 and 25, seniority list at Exhibit 34, letter dated 1/1/1997 at Exhibit 35 and the termination letter at Exhibit 37.

4. On the assessment of the oral and documentary evidence, the learned Judge of the Labour Court noted

that the termination letter dated 31/12/1996 and placed on record at Exhibit 37 was received by the workman on 4/1/1997. However, this was a record prepared by the employer to defeat the demand notice dated 16/12/1996. The Labour Court recorded a finding that the oral termination w.e.f. 26/11/1996 had taken place, the employee raised a demand for reinstatement challenging the oral termination and to defeat the same, record was prepared by the employer in support of its case that the employee was removed from service by way of retrenchment. This assessment done by the Labour Court on the evidence placed on record cannot be termed as perverse or palpably erroneous so as to call for interference in the well reasoned award of the Labour Court.

5. Hence this petition filed under Article 227 of the Constitution fails at its threshold and the same is hereby rejected summarily.

(B.H.MARLAPALLE,J.)